

REMARKS

Claims 61, 64, 67 and 70-72 have been amended and no claims have been canceled. No claims have been added. No new matter has been added. Claims 61-72 are pending.

Disclaimers Relating to Claim Interpretation and Prosecution History Estoppel

Claims 61, 64, 67 and 70-72 have been amended, notwithstanding the belief that these claims were allowable. Except as specifically admitted below, no claim elements have been narrowed. Rather, cosmetic amendments have been made to the claims and to broaden them in view of the cited art. Claims 61, 64 and 67 have been amended solely for the purpose of expediting the patent application process, and the amendments were not necessary for patentability.

The claims of this application are intended to stand on their own and are not to be read in light of the prosecution history of any related or unrelated patent or patent application. Furthermore, no arguments in any prosecution history relate to any claim in this application, except for arguments specifically directed to the claim.

Claim Rejections - 35 USC § 102

The Examiner rejected claims 61-72 under 35 USC § 102(b) as anticipated by Radziewicz (USP 5,854,897). This rejection is respectfully traversed.

The fundamental principles of claim rejections under 35 USC § 102 are stated in MPEP §2131 as follows:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The rejection of independent claims 61, 64, and 67 is traversed specifically because Radziewicz does not expressly or inherently disclose the limitations “periodically opening a viewer

window in which one or more ads from the ad pool are displayed” and “hiding the viewer window after a predetermined display run time and keeping the viewer window hidden for a predetermined quiet interval”.

Radziewicz discloses a system to allow a client station to receive advertisements whenever the connection path between the client and a network is idle. Radziewicz describes four methods of transmitting and display advertisements. In the first three methods (see col. 13, lines 35-36, for example), advertisements are continuously displayed in a fixed announcement window. In the fourth method, advertisements are displayed in a transient window that pops up on the display area of the client terminal whenever advertisements are being transmitted to the client terminal and subsequently disappears when the connection path (between the client terminal and the network) is otherwise busy (col. 24, lines 33-39). However, the availability of the connection path for transmitting advertisement depends upon a user’s interaction with the client terminal. Thus the display methods of Radziewicz are clearly not equivalent to **periodically** opening a viewer window or hiding the viewer window after a **predetermined** time period.

Since Radziewicz fails to expressly or inherently describe at least two limitations of the independent claims, it is respectfully submitted that claims 61, 64 and 67 are allowable. Additionally, dependent claims 62-63, 65-66, 68-69 and 70-72 are patentable at least by virtue of depending from an allowable base claim. Accordingly, withdrawal of the rejection is solicited.

Comments on Other Prior Art

The instant application is a continuation of parent application Serial No. 09/545,639, now US 7,353,269 B1. During the examination of the parent application, Landsman (US 2003/0023488 A1) was cited as disclosing limitations similar to **“periodically opening a viewer window in which one or more ads from the ad pool are displayed” and “hiding the viewer window after a predetermined display run time and keeping the viewer window hidden for a predetermined quiet interval”**.

In the interest of shortening prosecution, it is noted that Landsman describes a system and method for displaying advertisements during “interstitial” periods while new web pages are downloaded into a browser. Previously-downloaded advertisements are displayed when a user action initiates downloading of a new web page. The advertisements are displayed until (a) the advertisement has played completely, (b) the downloading of the new web page is completed, or (c) the user closes the advertisement (paragraphs 0110 and 0150). The method described by Landsman will result in sporadic display of advertisements for indeterminate periods of time. Thus the display methods of Landsman are clearly not equivalent to **periodically** opening a viewer window or hiding the viewer window after a **predetermined** time period as recited in the claims.

Conclusion

It is submitted, however, that the independent and dependent claims include other significant and substantial recitations which are not disclosed in the cited references. Thus, the claims are also patentable for additional reasons. However, for economy the additional grounds for patentability are not set forth here.

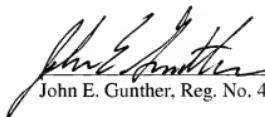
In view of all of the above, it is respectfully submitted that the present application is now in condition for allowance. Reconsideration and reexamination are respectfully requested and allowance at an early date is solicited.

Appl. No. 10/810,464
Amdt. Dated 4/23/2008
Response to Office action dated 02/05/2008

The Examiner is invited to call the undersigned registered practitioner to answer any questions or to discuss steps necessary for placing the application in condition for allowance.

Respectfully submitted,

Date: April 23, 2008



John E. Gunther
John E. Gunther, Reg. No. 43,649

SoCal IP Law Group LLP
310 N. Westlake Blvd., Suite 120
Westlake Village, CA 91362
Telephone: 805/230-1350
Facsimile: 805/230-1355
email: info@socalip.com